

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID ELLIOT CAMPBELL

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner
of the Social Security Administration

Defendant.

4:09CV3237

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's motion for payment of attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), [28 U.S.C. § 2412](#) and [42 U.S.C. § 406\(b\)](#), of the Social Security Act (the "Act"). Filing No. [28](#). Plaintiff seeks EAJA attorney fees in the amount of \$6,100.37, based on 34.85 hours of legal work. Filing No. [28](#). In addition, plaintiff requests recovery of paralegal and law clerk time based on 21.40 hours of legal work at a reasonable rate of \$25.00 per hour for paralegals 1 and 2, and \$25.00 per hour for law clerk 1. Filing No. [28](#). The paralegal and law clerk fees requested are \$500.00. Filing No. [28](#). The total amount requested equals \$6,600.37. Filing No. [28](#).

The plaintiff further asks the court to direct that payment of such relief be made to the attorney, not the plaintiff, unless the defendant shows that plaintiff has a valid outstanding debt as to which plaintiff has received due process. Filing No. [28](#). The defendant has no objection to the amount requested but does argue that the plaintiff may have an outstanding debt owed to the United States. Filing No. [30](#). Therefore, EAJA fees are subject to offset to satisfy any pre-existing debt that the litigant owes to the United States. See [Astrue v. Ratliff, 130 S. Ct. 2521 \(2010\)](#).

The court finds the plaintiff is entitled to an award pursuant to [42 U.S.C. § 405\(g\)](#) as a prevailing party in this action. See [Shalala v. Schaefer, 509 U.S. 292, 302 \(1993\)](#). The court further finds that the request is reasonable as to hourly amount and hours spent. Payment in the amount of \$6,600.37 shall be paid directly to attorney Stephen Speicher with the understanding that any payment of the attorney fees by the claimant pursuant to [42 U.S.C. § 406\(b\)](#) will be reduced by the amount of the fee authorized under the EAJA and will be reduced by any qualifying offset.¹

IT IS ORDERED that plaintiff's motion for payment of attorney fees, Filing No. [28](#), is granted. Payment in the amount of \$6,600.37, minus any authorized deductions, shall be paid directly to attorney Stephen Speicher as set forth herein.

DATED this 5th day of July, 2011.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

¹The government states: "Defendant notes that Plaintiff has signed a fee agreement assigning any fee to which he may be entitled under the EAJA to Plaintiff's attorney. Accordingly, after this Court issues an order awarding an EAJA fee to Plaintiff, Defendant will verify with the Department of Treasury whether Plaintiff in fact owes a debt to the United States that is subject to offset. If there is no debt owed by Plaintiff, the fee will be made payable to his attorney based on the assignment." Brief of the United States, Filing No. [30](#) at 2, n.1.

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